

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

ERIK FLORES-GONZALES,

Petitioner,

vs.

CRAIG FARWELL *et al.*,

Respondents.

3:05-cv-00647-LRH-RAM

ORDER

This habeas matter comes before the Court on the petitioner's statement (#33) electing to abandon his unexhausted claims.

IT THEREFORE IS ORDERED that Ground 1 is DISMISSED IN PART to the extent and only to the extent that petitioner claims: (a) that appellate counsel was ineffective for failing to raise an issue as to alleged defects in the plea agreement, (b) that appellate counsel was ineffective for failing to raise an issue as to an alleged abuse of discretion in sentencing; and (c) that N.R.S. 174.035 violates the Due Process Clause because the statute allegedly allows the State to arbitrarily and capriciously deny one defendant the right to appeal pretrial rulings while allowing other defendants to do so.

IT FURTHER IS ORDERED that the respondents shall file an answer responding to the merits of the remaining claims in the petition within sixty (60) days of entry of this order. Respondents may renew the procedural default and other defenses asserted in the prior motion to dismiss, but the answer nonetheless shall provide adequate state court record materials and argument to address all claims in

1 the petition on the merits and/or under the limitation on claims arising prior to a plea under *Tollett v.*
2 *Henderson*, 411 U.S. 258, 93 S.Ct. 1602, 36 L.Ed.2d 235 (1973), and *Hill v. Lockhart*, 474 U.S. 52, 106
3 S.Ct. 366, 88 L.Ed.2d 203 (1985), to the extent applicable.

4 IT FURTHER IS ORDERED that any additional exhibits filed by the respondents shall be filed
5 with a separate index of exhibits identifying the exhibits by number or letter. The CM/ECF attachments
6 that are filed further shall be identified by the number or numbers (or letter or letters) of the exhibits
7 in the attachment, in the same manner as respondents did previously in ## 22-24. The purpose of this
8 provision is so that the Court, the parties, and any reviewing court thereafter will be able to quickly
9 determine from the face of the electronic docket sheet which exhibits are filed in which attachments.

10 IT FURTHER IS ORDERED that petitioner shall have sixty (60) days from service of the
11 response within which to file a reply to the answer.

12 DATED this 11th day of April, 2008.

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LARRY R. HICKS
UNITED STATES DISTRICT JUDGE
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